

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Verizon Petition for Emergency Declaratory and Other Relief)	WC Docket No. 02-202
)	
)	

WORLDCOM REPLY COMMENTS

WorldCom, Inc. (WorldCom) hereby submits its reply to comments on Verizon’s “Petition for Emergency Declaratory and other Relief.”

The initial comments in this proceeding show that, for both substantive and procedural reasons, the Commission cannot possibly grant the declaratory and other relief sought by Verizon. Verizon’s requests are accurately described as “silly”¹ and, “nothing short of extraordinary.”² Moreover, commenters persuasively demonstrate that Verizon’s petition ignores a number of salient issues that the Commission would have to consider in evaluating rules regarding the responsibilities of dominant common carriers vis a vis successors to bankrupt entities.

As an initial matter, WorldCom reiterates its recommendation that the Commission should promptly release a Notice of Proposed Rulemaking to establish rules to restrain the exercise of market power by dominant carriers as Verizon in their relationships with successors to bankrupt entities. In its initial comments, WorldCom pointed out that the

¹ Global Crossing Comments at 8.

post-bankruptcy period may provide dominant carriers with a unique opportunity to disadvantage their rivals. We urged the Commission to initiate a proceeding to examine a number of related issues and to establish rules to protect the public interest in a competitive telecommunications market, free of needless service disruptions.

Other commenters agree that a more thorough evaluation of these issues is required. For example, the New York State Department of Public Services (NYDPS) has also advised the Commission to consider a rulemaking. The NYDPS recognizes that the duties of a dominant carrier such as Verizon in the post-bankruptcy period may differ from those of other private parties.³ As the NYDPS suggests, it is critical that the Commission examine these issues further, both when executory contracts are assumed and when they are rejected. Similarly, as CompTel notes, the Commission should be extremely wary of allowing an ILEC to disconnect end user circuits as a condition to the rejection of an executory contract by the successor to a bankrupt entity.⁴

Non-ILEC commenters also agree that the Commission should reject Verizon's plea that the Commission accept its security deposit tariff revisions. The record in this proceeding and in the Verizon Transmittal No. 226 proceeding shows that the level of the incumbent LECs' uncollectibles is no worse and, in most cases, significantly better than that of nondominant carriers or firms in other industries. Almost every telecommunications carrier, not just the incumbent LECs, has seen its uncollectibles increase as the industry downturn has deepened.⁵ And, as AT&T and other commenters point out, the incumbent LECs' are still well-protected against the effects of the industry downturn. After all,

² Nextel Opposition at 9.

³ NYDPS Comments at 2-3.

⁴ CompTel Comments at 9.

ARMIS data show that the incumbent LECs' level of bad debt is still extremely low and that the incumbent LECs' earnings are still at record levels.⁶

The incumbent LECs' only specific complaint about the existing tariff language is that it does not protect them against the risk that a customer with a good payment history could suddenly declare bankruptcy.⁷ But the incumbent LECs' exposure is extremely limited in such cases: if a customer pays on time until shortly before it declares bankruptcy, the incumbent LEC would likely be owed little more than one month's billing (and the incumbent LEC would likely recover a significant portion of that amount during the subsequent bankruptcy proceeding). Moreover, the incumbent LECs are not disadvantaged by the fact that their security deposit tariffs do not guard against each and every risk; the ARMIS data demonstrate that the ILECs are, on an overall basis, well-protected against bad debt.

The comments show that the incumbent LEC tariff filings seek a level of protection against bad debt that competitive carriers could never obtain. As Covad explains, "[c]ompanies in a competitive industry would not be permitted by market forces to impose such unreasonable demands on their customers."⁸ Similarly, Nextel explains that "[i]f non-dominant carriers attempted to impose such onerous conditions, customers could switch to another provider."⁹ AT&T shows that, if a competitive carrier sought to impose a security deposit policy as onerous as the one proposed by the incumbent LECs, "financially viable

⁵ Time Warner Telecom Comments at 9-10.

⁶ AT&T Comments at 7-8.

⁷ See, e.g., SBC Comments at 6-7; BellSouth Comments at 3.

⁸ Covad Comments at 5.

⁹ Nextel Comments at 7.

customers would find a new supplier – an option not available to IXC, which must purchase the LECs’ access.”¹⁰

Contrary to SBC’s claim, it is irrelevant that some nondominant carriers’ security deposit tariff language is broader than the incumbent LECs’ existing security deposit tariff language.¹¹ Whatever discretion those nondominant carriers are afforded by their tariff language is sharply constrained by market forces. If a nondominant carrier sought to implement a security deposit policy that did not reasonably balance the interests of the carrier with the interests of its customers, that carrier “would lose its market share as its customers sought out competitors whose prices and terms are more reasonable.”¹² By contrast, because the incumbent LECs remain dominant carriers, market forces cannot ensure that the incumbent LECs’ security demands will be just and reasonable. Consequently, the Commission must ensure, through the tariff review process, that the incumbent LECs’ tariffs limit those dominant carriers to a security deposit policy that reasonably balances the incumbent LECs’ interests with those of their customers. The tariff revisions proposed by the incumbent LECs do not meet that test.

As WorldCom and other parties have shown in their petitions to reject or suspend and investigate, the Commission should reject the incumbent LECs’ security deposit tariff revisions because they are unjust and unreasonable in violation of Section 201(b) of the Act. The incumbent LECs are seeking to use the well-publicized financial difficulties of CLECs, ISPs, and IXCs as a pretext to impose an unreasonable security deposit demands on their customers and competitors.

¹⁰ AT&T Comments at 16.

¹¹ SBC Comments at 8-9.

¹² First Competitive Carrier Order, 86 FCC 2d at 31.

For the reasons stated herein, the Commission should decline to act on Verizon's petition.

Respectfully submitted,
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